

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

**CORBEY JONES AND
CYNTHIA ANN JONES**

PLAINTIFFS

V.

CIVIL ACTION NO. 2:22-cv-93-KS-MTP

**JONES COUNTY, MS; SHERIFF JOE
BERLIN; DEPUTY JAMES MANN; SGT.
JESSE JAMES; DEPUTY COLTON
DENNIS; UNKNOWN DEPUTIES OF
THE JONES COUNTY SHERIFF 1-5;
DONNIE SCOGGIN; and
CAROL JOHNSON**

DEFENDANTS

ORDER OF PARTIAL DISMISSAL

This cause comes before the Court on Defendant Donnie Scoggin's Motion to Dismiss [10], wherein he clarifies that he is employed by South Central Regional Medical Center, which an instrumentality of Jones County, a political subdivision of the State of Mississippi. [10-1]. Scoggin seeks to dismiss all state law claims against him due to Plaintiff's failure to provide a pre-suit notice of the claims as required under Miss. Code Ann. § 11-46-11. Scoggins further argues that even if notice had been given, under the Mississippi Tort Claims Act ("MTCA"), because he was an employee of South Central Regional Medical Center, he cannot be held personally liable for acts or omissions occurring within the course and scope of his employment duties under Miss. Code Ann. § 11-46-7(2).

Plaintiffs respond that they were unaware of Scoggin's affiliation with a governmental entity, and given this new information, Plaintiffs agree that the state law claims asserted against Scoggin are required to be dismissed. Plaintiffs point out, however, that there remain Section 1983 claims pending. Plaintiffs argue that those claims should not be dismissed. The Court agrees.

Plaintiffs Complaint asserts three causes of action—the first two are the Section 1983 claims and the third is the state law negligence claim. Because the only grounds asserted in the Motion to Dismiss go to the insufficiency of the state law claim brought under the MTCA, and because Plaintiffs agree to its dismissal, the Court hereby dismisses the Third Cause of Action against Donnie Scoggin. The first two causes of action against him remain pending.

SO ORDERED AND ADJUDGED this 1st day of November 2022.

/s/ Keith Starrett
KEITH STARRETT
UNITED STATES DISTRICT JUDGE